

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEROME CEASAR ALVERTO,  
Plaintiff,  
v.  
DEPARTMENT OF CORRECTIONS, et  
al.,  
Defendants.

CASE NO. C12-5518 BHS-KLS

AMENDED ORDER ADOPTING  
REPORT AND  
RECOMMENDATIONS

11 This matter comes before the Court on the Report and Recommendation (“R&R”)  
12 of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 32), and  
13 Plaintiff Jerome Ceasar Alberto’s (“Alberto”) objections to the R&R (Dkt. 36).

## I. PROCEDURAL & FACTUAL BACKGROUND

15 On October 10, 2012, Alverto filed a motion for preliminary injunction to enjoin  
16 the Defendant Barbara Gronseth (“Gronseth”), a law library employee at Clallam Bay  
17 Corrections Center (“CBCC”) (Dkt. 28-1 at 1), from harassing him, from obstructing  
18 evidence, and from obstructing his access to the library at CBCC, where Alverto is  
19 incarcerated. Dkt. 20 at 3-4. In that same motion, Alverto also sought an order directing  
20 Defendants to permit him to have an extra box of legal materials in his cell. *Id.* Finally,  
21 Alverto requested declaratory judgment that he has a due process right to equal treatment  
22 in accessing the courts, which he claims Gronseth violated. *Id.* at 4.

1 Judge Strombom issued an R&R which recommended that the Court deny  
2 Alverto's motion for temporary injunction because he has failed to demonstrate (1)  
3 irreparable harm absent the relief he seeks, or (2) that he has suffered any harm regarding  
4 his access to the courts. Dkt. 32 at 4. In regard to the latter, Judge Strombom found that  
5 even if Alverto's hours at the library were lessened by three hours in one week, as  
6 claimed, Alverto failed to provide specific evidence demonstrating that library restriction  
7 actually occurred, and he failed to show actual injury therefrom. Dkt. 32 at 4. Further,  
8 Judge Strombom found that Alverto has shown no entitlement to have an extra box of  
9 legal papers in his cell, which "may certainly be more convenient," but inconvenience  
10 "does not amount to the irreparable harm required for the issuance of a preliminary  
11 injunction." *Id.* at 4-5.

12 On December 28, 2012, Alverto filed objections to Judge Strombom's R&R,  
13 alleging Gronseth acknowledged and admitted to obstructing a "material" and "relevant"  
14 "affidavit" from him "for the sole intent to retaliate against Plaintiff and to impede  
15 Plaintiff's ability to litigate the lawsuit...against Defendant Gronseth." Dkt. 36 at 2. On  
16 January 11, 2013, Defendants filed a response to Alverto's objections, arguing that his  
17 objections are based on a factual misstatement in the R&R. Dkt. 38 at 1-2. Thus,  
18 Defendants ask the Court to adopt Judge Strombom's recommendations. *Id.*

## 19 **II. DISCUSSION**

20 Alverto argues that an injunction should issue because Defendant Barbara Gronseth  
21 has "acknowledged and admitted to obstructing 'material' and 'relevant' affidavit from  
22 the Plaintiff" in this case. Dkt. 36 at 2. Defendants argue that if this statement were true

1 it would weigh in favor of issuance of a preliminary injunction; however, it is not true  
2 and Alverto should know it is not true. Dkt. 38 at 1.

3 As Defendants argue, the statement quoted by Alverto regarding an alleged  
4 admission by Gronseth is indeed a misattribution in Judge Strombom's R&R. In her  
5 R&R, she states: "Defendant Gronseth states that inmate Roper stopped working on the  
6 affidavit and consequently, Mr. Alverto 'was denied material and relevant evidence' in  
7 this case." Dkt. 32 at 1. Had that actually been Judge Strombom's finding, it would have  
8 at least altered her legal analysis, if not her conclusion as to whether Alverto was  
9 irreparably harmed. However, it was not Judge Strombom's finding but a simple  
10 misattribution of a quote taken from Alverto's own affidavit (Dkt. 20 at 7) and attributed  
11 to Gronseth. This conclusion by Judge Strombom is supported by the absence of any  
12 such statement in Gronseth's affidavit (*see* Dkt. 28-1).

13 Aside from Alverto's continued assertion that Gronseth has impeded his ability to  
14 litigate his case and that an injunction should issue to prevent her from doing so, he offers  
15 no factual or legal support to persuade this Court that Judge Strombom's R&R was in  
16 error.

17 The Court having considered the R&R, Plaintiff's objections, and the remaining  
18 record, does hereby find and order that the R&R is **ADOPTED** (Dkt. 32).

19 Dated this 30<sup>th</sup> day of January, 2013.

20   
21 BENJAMIN H. SETTLE  
22 United States District Judge